

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

STATE OF TEXAS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 7:16-cv-54-O
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	
_____)	

NOTICE TO THE COURT REGARDING APPEAL

As this Court is aware, Defendants filed a Motion for Clarification, ECF No. 65, on September 12, 2016, in which they asked the Court to clarify the scope of its Preliminary Injunction in several respects. Defendants also requested expedited briefing and consideration of the motion, and respectfully requested that the Court issue a ruling by October 3, 2016. *See* ECF No. 65 at 3. The motion was fully briefed as of September 23, and the Court held a hearing on the motion on September 30, but has not yet issued a ruling. Defendants would prefer not to file a notice of appeal while the Motion for Clarification is pending, but Defendants wish to advise the Court that they currently intend to file a protective notice of appeal on or before October 20, 2016 – sixty days after entry of the Court’s August 21, 2016 preliminary injunction, *see* Fed. R. App. P. 4(a)(1)(B) – in order to ensure their ability to pursue a timely appeal of the preliminary injunction.

Dated: October 14, 2016

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

SHEILA M. LIEBER
Deputy Director, Federal Programs Branch

/s/ Benjamin L. Berwick

BENJAMIN L. BERWICK (MA Bar No. 679207)

JAMES BICKFORD (NY Bar No. 5163498)

Trial Attorney, U.S. Department of Justice

Civil Division, Federal Programs Branch

1 Courthouse Way, Suite 9200

Boston, MA 02210

Telephone: (617) 748-3129

Facsimile: (617) 748-3965

Email: Benjamin.L.Berwick@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2016, a copy of the foregoing Notice to the Court Regarding Appeal was filed electronically via the Court's ECF system, which effects service upon counsel of record.

/s/ Benjamin L. Berwick
Benjamin L. Berwick